

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

IN RE:)	CASE NO. 06-04120-8-RDD
)	
CLARENCE EDWARDS, JR.)	CHAPTER 13
MARTHA T. EDWARDS)	
)	
Debtors)	

MOTION TO LIFT STAY
(11 U.S.C. §362)

NOW COMES Log Cabin Homes Ltd. ("Movant") and respectfully represents to the Court the following:

1. Movant is a secured creditor of Clarence Edwards, Jr. and Martha T. Edwards ("Debtors") under a Note and Deed of Trust dated respectively March 21, 2001 originally for \$87,000.00. The Note and its corresponding Deed of Trust are attached hereto as Exhibit A.
2. The Note is secured by real property located at 5915 North Halifax Road, Battleboro, North Carolina, and being more particularly described in the Deed of Trust recorded in Book 1769, Page 294 of the Nash County Registry.
3. Debtors filed a petition for relief under Chapter 13 of the Bankruptcy Code on December 17, 2006.
4. Debtors are currently obligated to pay Movant \$795.82 per month under the terms and provisions of the Note and Deed of Trust.
5. Debtors are currently past due for accrued post-petition monthly payments and late fees for April through May, 2008 in at least the amount of \$1,655.30.
6. The payoff balance of the secured debt owed to Movant as of May 3, 2008 was \$97,678.99 on the Note. The balance continues to accumulate post-petition at the contractual rate, but no payments are being made.
7. Movant has demanded that Debtors pay all arrearage due in accordance with the provisions of the Bankruptcy Code and the terms and provisions of the Note and Deed of Trust. Debtors' failure to make payments as scheduled constitutes a material breach of both the Note and Deed of Trust.
8. Movant does not have and has not been offered adequate protection for its secured interest. If the relief prayed for herein is not granted, Movant will suffer immediate and irreparable harm. Movant is entitled to recover its attorney fees of \$350.00 and costs of \$150.00.

WHEREFORE, Movant prays the Court to order as follows:

1. The automatic stay of 11 U.S.C. §362 be lifted to permit Movant to foreclose its security interest in the real property described in the Note and Deed of Trust according to the laws of the State of North Carolina and the terms and provisions of the Note and Deed of Trust.

2. The proceeds of the foreclosure sale of the subject property be applied toward the indebtedness due Movant by Debtors under the terms and provisions of its Note and Deed of Trust and the laws of the State of North Carolina including costs of sale and reasonable attorney fees.
3. Movant recover its attorney fees and costs of not less than \$500.00.
4. Movant have such other and further relief as the Court deems just and proper.

DATED: May 5, 2008.

BATTLE, WINSLOW, SCOTT & WILEY, P.A.

By: s/ A. Scott McKellar
A. Scott McKellar
NC State Bar No. 27965
Attorney for Log Cabin Homes Ltd.
Post Office Box 7100
Rocky Mount, NC 27804-0100
Telephone: (252) 937-2200

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TO: Clarence Edwards, Jr. and Martha T. Edwards, Debtors; Peggy S. Levin, Attorney for Debtors; Robert R. Browning, Trustee

NOTICE OF MOTION TO LIFT STAY

NOTICE IS HEREBY GIVEN of the Motion to Lift Stay of 11 U.S.C. §362 filed simultaneously herewith by Log Cabin Homes Ltd. in the above-captioned case; and

FURTHER NOTICE IS HEREBY GIVEN that if you fail to respond or otherwise plead or request a hearing in writing within **FIFTEEN (15) DAYS** from the date of this notice, the relief requested in the motion may be granted without further hearing or notice; and

FURTHER NOTICE IS HEREBY GIVEN that if a response and a request for a hearing is filed by the Debtors, Trustee, or other parties in interest named herein in writing within the time indicated, a hearing will be conducted on the motion and response thereto at a date, time and place to be later set by this Court and all interested parties will be notified accordingly.

DATED: May 5, 2008.

s/ A. Scott McKellar
A. Scott McKellar
NC State Bar No. 27965
BATTLE, WINSLOW, SCOTT & WILEY, P.A.
Attorney for Log Cabin Homes Ltd.
Post Office Box 7100
Rocky Mount, NC 27804-0100
Telephone: (252) 937-2200

CERTIFICATE OF SERVICE

I, A. Scott McKellar, Attorney for Log Cabin Homes Ltd. in this action, hereby certify that on the 5th day of May, 2008, I served the documents to which this certificate is attached:

NOTICE OF AND MOTION TO LIFT STAY

by depositing a copy thereof postpaid in a post office or official depository under the exclusive care and custody of the United States Postal Service, in a wrapper, addressed to each of the following parties of interest in this action at the following last known addresses:

Clarence Edwards, Jr. Martha T. Edwards 5915 N. Halifax Road Battleboro, NC 27809	Peggy S. Levin Craft, Levin & Abney, L.L.P. Attorney for Debtors 1701 Sunset Avenue, Suite 207 Rocky Mount, NC 27804
Robert R. Browing Chapter 13 Trustee Post Office Box 8248 Greenville, NC 27835	

s/ A. Scott McKellar

A. Scott McKellar
Post Office Box 7100
Rocky Mount, NC 27804-0100
Telephone: (252) 937-2200